

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:01-CR-78-BO-1  
NO. 5:15-CV-503-BO

RUSSELL LAMONT HOWARD, )  
Petitioner, )  
 )  
v. ) ORDER  
 )  
UNITED STATES OF AMERICA, )  
Respondent. )

This cause is before the Court on petitioner's motion to vacate under 28 U.S.C. § 2255 and the government's corresponding motion to dismiss. Petitioner argues that, in light of the Supreme Court's decision in *Johnson v. United States*, 135 S.Ct. 2551 (2015), his prior conviction for common law robbery no longer constitutes a crime of violence.

Pursuant to 15-SO-2, the Office of the Federal Public Defender is appointed to assess the viability of petitioner's *Johnson* claim.

SO ORDERED this 15 day of January, 2016.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE